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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/010,317 01/21/98 HOOK

M TAMK:189

HM12/0225

M. SUZY STRICKLAND  
ARNOLD WHITE & DURKEE  
P.O. BOX 4433  
HOUSTON TX 77210-4433

EXAMINER

LEE, L

ART UNIT

PAPER NUMBER

1645

DATE MAILED:

02/25/00

*15*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/010,317**

Applicant(s)

**Hook et al**

Examiner

**Li Lee**

Group Art Unit

**1645**



☒ Responsive to communication(s) filed on Nov 5, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 33-35 and 37 is/are pending in the applicat

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 33-35 and 37 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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### **DETAILED ACTION**

1. Applicant's amendment filed on Nov 05, 1999 (Paper Number 14) has been received and entered. Claims 1-32, 36, and 38-53 have been canceled. Claim 33 has been amended, consequently claims 33-35 and 37 are pending in the instant application.

### ***Rejections Withdrawn***

2. The rejection of claims 33-37 under 35 U.S.C. 112, second paragraph, as being indefinite is withdrawn in view of Applicant's amendment of recitation of a specific peptide sequence in claim 33.

3. The rejection of claims 33 and 37 under 35 U.S.C. 102(b) as being anticipated by Rozalska et al is withdrawn in view of Applicant's amendment.

### ***Claim Rejections - 35 USC § 102***

4. Claims 33-35 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Burnham et al (US 5,955,078, Sep 21, 1999).

Burnham et al teach a method of generating an antibody that binds to a fibronectin binding domain of a fibronectin binding protein and inhibits of said fibronectin binding protein to fibronectin (Abstract and Background of the Invention). The antibody of Burnham may be generated using a immunogen having an epitope present in the D1-D4 region of fibronectin binding protein, e.g., SEQ ID Nos: 6-8 (column 2, lines 43-46 and column 3, lines 11-14). The

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immunogen of the peptide of SEQ ID NO:60, 61, or 103 used to generate the claimed antibody in the instant application has an 100 % identical epitope (more than 5 amino acids in length) to the one covered by the peptide of Burnham et al of SEQ ID Nos: 6-8 (see the sequence search report). Art specifically teaches that an epitope is about 5 amino acid in size (Warren et al Medical Microbiology & Immunology, 1994, page 293). Thus, Burnham et al meet the limitation of the claims.

*Status of Claims*


5. No claims are allowed. All claims stand rejected.

Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1645 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Li Lee whose telephone number is (703) 308-8891. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached at (703) 308-3995.

Li Lee  
February 22, 2000

  
**ALBERT NAVARRO**  
**PATENT EXAMINER**